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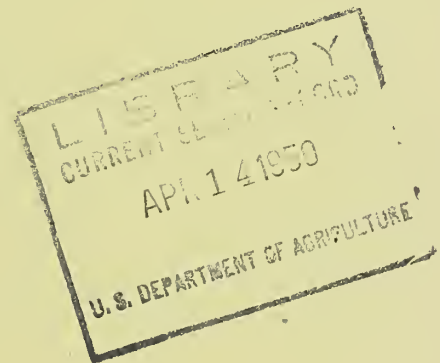
PROCEDURE TRANSMITTAL

NEW RELEASE

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SETTLEMENT OF CLAIMS BY AND AGAINST CCC AND REPORTING CLAIMS ACTIVITIES: Outlines the methods for settling disputed claims by or against the CCC, defines responsibilities with respect to certain other claims activities.

Forms PMA-178 Revised and PMA-356 will be available only in Washington. Field Offices should requisition these forms through their branch headquarters. Forms Manual Insertions will be distributed later.



SETTLEMENT OF CLAIMS BY AND AGAINST CCC
AND REPORTING CLAIMS ACTIVITIES

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I PURPOSE

This Instruction outlines the methods for settling disputed claims by or against the Commodity Credit Corporation, based on contract or otherwise, defines responsibilities with respect to certain other claims by and against CCC, and establishes a system for reporting all CCC claims activities.

II SCCOPE

A Claims Included Within This Instruction - This Instruction includes claims by and against the CCC which involve:

1 Any demand made by or against CCC based on contract or otherwise where CCC and the person against whom the demand is made, or who makes the demand, are in disagreement as to the amount due because of disputed questions of fact or law. Claims by CCC shall be classed as disputed (1) when a protest or other evidence of disagreement with a demand by CCC has been received, or (2) when the protest or disagreement stated in (1) has not been made and a remittance has not been received at the expiration of six months after the date of a demand which the office handling the claim is reasonably certain was delivered to the liable party. Claims against CCC shall be classed as disputed when the claimant resubmits a claim to which the CCC has previously stated its disagreement. These claims are referred to in this Instruction as "disputed claims."

2 Any amount due the CCC as evidenced by a document or documents reflecting a shortage, spoilage, or damage to Corporation-owned commodities or property, or reflecting any other damage suffered by CCC because of overpayment under a contract or breach of a written or verbal contract.

3 Any documented demand against the Corporation, for payment or refund, for ALLEGED services rendered, damages suffered, or shortages or deficiencies in commodities delivered.

B Claims Excluded From This Instruction - This Instruction does not include the following types of claims:

1 Routine billings by or against CCC covering services rendered or commodities delivered in accordance with a contract or normal trade practices.

2 Routine requests for payment or refunds.

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3 Requests for adjustment to contracts which may properly be made the subject of a contract amendment.

4 Any claim resulting from termination of a war contract or claims filed under Section 17 of the Contract Settlement Act of 1944. (See PMA Instruction 129.3, "Procedure for War Contract Terminations, Settlement of Termination Claims and Disposition of Contractor Inventory.")

5 Claims which arise as a result of renegotiation of contracts. (See PMA Instruction 129.4, "Procedure for Contract Renegotiation.")

6 Any indebtedness of a farmer, which falls within the purview of the Act of December 20, 1944 (58 Stat. 836, 837; 12 U.S.C. 1150, 1151 a-c), arising from loans or payments made or credit extended to him under commodity loan, purchase, sale, and other programs of CCC. (See PMA Instruction 201.1, "Regulations Governing the Settlement of Certain Debts of Farmers.")

III SETTLEMENT OF CLAIMS

A Claims Not in Excess of \$5,000 - Each branch director shall be responsible for negotiating the settlement of and settling any disputed claim arising out of activities under the jurisdiction of his branch where the face amount is not in excess of \$5,000.

B Claims in Excess of \$5,000 - Each branch director shall be responsible for negotiating the settlement of and settling any disputed claim arising out of activities under the jurisdiction of his branch where the face amount is in excess of \$5,000, if a settlement can be made on the basis of resolving all disputed questions of fact and law in favor of the Corporation. For example, where a disputed claim is presented containing two or more items, one or more items of which can be paid under usual voucher procedure and the other item or items of which is in dispute, if the claimant withdraws the item or items in dispute, the remaining item or items should be processed for payment without the approval of the Assistant Administrator for Fiscal and Inventory Control (hereinafter referred to as Assistant Administrator), even though the item or items are in excess of \$5,000.

IV NEGOTIATION AND RECOMMENDATION FOR SETTLEMENT OF DISPUTED CLAIMS

A Branch Responsibilities - Each branch director shall be responsible for negotiating and recommending the settlement or other disposition of disputed claims other than those specified in section III above, arising out of activities under the jurisdiction of his branch. Branch directors shall forward such recommendations to the Director of the Fiscal (FI) Branch, who shall forward them, together with a statement of concurrence or non-concurrence setting forth his reasons therefor, to the Assistant Administrator.

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B Authority of Assistant Administrator - The Assistant Administrator is authorized to approve or disapprove recommendations specified in A above, which approval or disapproval shall be in writing. If he approves the recommendation, the branch shall settle the claim in accordance with the approved recommendation. If he disapproves the recommendation, the file shall be returned to the branch for such further action as may be required by the Assistant Administrator.

V CLAIMS DETERMINATIONS

A Determinations - Each branch director is responsible for determination of liability and liable party or parties in connection with all claims defined in Section II A 2 and 3 of this Instruction, arising out of activities under jurisdiction of his branch with the following exception:

1 The Shipping and Storage (SS) Branch is responsible for making determinations of transit claims against vendore, i. e., claims for losses or damages in connection with shipment of commodities involving contractors other than warehousemen and carriers, in all cases where the shipping and storage functions have been placed with the SS Branch.

a Where the amount of the transit claim against a vendor, as defined above, is in excess of \$500, and the claims determination has not been approved in writing by the commodity branch responsible for the commodity activity, the FI Branch will refer such claim to the responsible commodity branch for concurrence prior to action being taken against the vendor by the FI Branch.

b If, after action is taken against the vendor through offset of the amount claimed or otherwise, the vendor then disputes the claim, such disputed claim will be referred by the FI Branch to the SS Branch for review and transmittal to the responsible commodity branch for settlement in accordance with provisions of this Instruction pertaining to settlement of disputed claims.

VI REFERRAL OF CLAIMS

Each branch director shall be responsible for promptly forwarding, except as described in V A 1 above, to the appropriate branch any claim received together with related documents, which did not arise from activities for which the receiving branch is responsible.

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VIII COMPROMISE OF CLAIMS

Nothing contained in this Instruction shall be construed as authorizing the compromise of a claim unless the collectibility thereof is subject to doubt because of disputed questions of fact or law.

VIII SOLICITOR'S OPINION

Before making or recommending settlement, the branch shall obtain a memorandum from the Solicitor's Office as to the legal issues involved in a claim if there is doubt as to the law and such doubt has not been previously covered by a memorandum from the Solicitor's Office, or if the claim is against the Corporation and is not based on contract.

IX SET-OFF

The right of certifying officers or other officers to apply set-off against any amount otherwise due a claimant for the purpose of liquidating any known indebtedness of such claimant to the Corporation or the United States, shall in no way be limited by these instructions. Any exception to the foregoing shall be permitted only on the basis of a written agreement executed by the claimant and the Assistant Administrator.

X LITIGATION

A Recommendations as to Lawsuits - Recommendations by branch directors and others to the Solicitor's Office with respect to the prosecution or defense of pending lawsuits and recommendations that suit be filed on any claim shall be forwarded to the Assistant Administrator for his approval, except in defense of lawsuits where expeditious action is necessary recommendations may be forwarded direct to the Solicitor's Office with a copy transmitted to the Assistant Administrator.

B Furnishing and Obtaining Information - The branches shall be responsible for furnishing the Solicitor's Office with information and reports required in the prosecution or defense of lawsuits resulting from claims arising out of activities under the jurisdiction of the branches, and shall be responsible for obtaining from the Solicitor's Office information concerning the status of litigation matters and claims pending in the Solicitor's Office.

XI REVIEW OF CLAIMS DETERMINATION

The FI Branch shall be responsible for; (1) reviewing all claims determinations and settlements to see that they are properly documented; and (2) reviewing all claims determinations to ascertain that they conform with contract provisions, rules and regulations and policies established by PMA, the Department, the GAO, and laws, and that they are properly executed. The Director

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of the FI Branch may comment on any claim determination as a result of the fiscal examination outlined in this section or where error or fraud is patent on the face thereof, and forward his comments to the Assistant Administrator. The Assistant Administrator will make the final determination with respect to any claim forwarded to him under provisions of this Instruction.

XII MAKING PAYMENTS OR EFFECTING COLLECTIONS

The FI Branch shall be responsible for making payments or effecting collections of claims in such amounts as may be determined in accordance with these instructions.

XIII EXECUTION OF APPROPRIATE DOCUMENTS

The branches shall be responsible for executing any appropriate contract documents, settlement agreements, or other instruments required to dispose of any claims arising out of activities under jurisdiction of the branches.

XIV COORDINATION OF ACTIVITIES

The Assistant Administrator is responsible for (a) overall coordination of CCC claims activities, (b) controlling progress on such claims activities, (c) resolving any questions as to the applicability of provisions of this Instruction, and (d) negotiating the settlement of and settling any disputed claim arising under contracts executed by himself or employees under his immediate supervision.

XV DELEGATION OF RESPONSIBILITY

A Assistant Administrator - The Assistant Administrator may delegate such of his responsibilities set forth in this Instruction as he may deem necessary for efficient administration, provided that the following responsibilities shall not be delegated: (1) Approval or disapproval of recommendations of branch directors, and (2) settlement of any disputed claim in excess of \$1,000 arising under contracts executed by himself or employees under his immediate supervision.

B Fiscal Branch Director - The Director of the FI Branch may delegate to those branches responsible for shipping and storing commodities his responsibilities for (a) making reviews of claim determinations and settlements, and (b) making payment or effecting collections of claims in such amounts as may be determined in accordance with provisions of this Instruction, such delegations shall clearly define the extent of the authority granted.

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C Branch Directors - Branch directors may, within the limits herein prescribed and subject to the written approval of the Administrator, delegate to branch personnel in Washington and in the field any part of their claim responsibility. Such delegation shall be in writing and shall clearly define the extent of the authority granted. Such delegation may include the authority to determine a claim uncollectible where the amount of the claim is less than \$10, the full facts have not been ascertained, and the cost of investigation would greatly exceed the amount which could be collected. Persons to whom such delegation is made shall be called "Claims Officers" and shall be subject to the same requirements in respect to investigation as may be required of Contracting Officers of the Corporation.

1 Claims Officers - A "Claims Officer" shall not settle or adjust any claim arising under a contract executed by himself.

2 Copies of Authorizations - Branch directors shall furnish the FI Branch with signed copies of each delegation of authority made in accordance with these Instructions.

3 Suggested Form of Delegation - Attached (Exhibit A) is a copy of a form of delegation which may be used by branch directors in making delegations of authority to Claims Officers where the branch director desires to delegate all of his responsibility which may be delegated under these instructions. Where the branch director does not decide to delegate all of his responsibility, appropriate changes indicating the extent of the authority delegated should be made.

XVI REPORTS

A Form PMA-178 - Each branch shall furnish the FI Branch not later than the tenth calendar day of each month the "Report of Claims Activities By - Against CCC" (Form PMA-178 Revised) covering claims activities PMA-178 through the end of the preceding calendar month. Separate reports in duplicate shall be submitted for claims by and claims against CCC. The initial report shall cover claims activities for March, 1947. With the following exceptions the data to be reported under the various items in PMA-178, Revised, are considered to be self-explanatory:

1 Value Groups - Value should be actual where known; otherwise used best possible estimate. Omit decimals.

2 Lines 4 and 11 - Adjustments - Changes in amounts of claims as well as corrections to previous reports should be included on these lines.

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3 Line 7 - Transferred to Other Branches - Do not include on this line any claims finally disposed of by the reporting branch, which are properly reported as "Disallowed by CCC," "Withdrawn," or "Determined to be Uncollectible," but which may be referred to another branch for subsequent routine handling; for example, inclusions in a memorandum assets account by the FI Branch.

4 Line 10 - Determined to be Uncollectible - This item should include claims determined to be uncollectible in accordance with PMA Instructions.

5 Line 14 - Claims in Litigation - This shall include (a) claims by CCC which the Office of the Solicitor has actually referred to the Department of Justice for legal action, (b) claims by or against CCC on which further action is deferred pending the outcome of test suits on claims of the same nature, and (c) claims against CCC on which claimants have filed suits. The branches shall be responsible for reporting on claims in litigation from the time they are referred to the Department of Justice until they are disposed of following judgment or ruling by the Solicitor's Office that further collection efforts are unwarranted.

6 Line 15 - Claims Referred to Solicitor, Not in Litigation - Claims that have been referred to the Solicitor (a) for legal opinion or (b) for legal action but which are not yet in litigation, as defined in the preceding paragraph, shall be reported on this line.

B Special Branch Report to Assistant Administrator - In addition to the branch reports on PMA-178, Revised there shall be furnished a report to the Assistant Administrator, on or before the eighth calendar day of each month, with the initial report covering claims activities for March, 1947. The reports shall be signed by the director of each branch and shall show the following information on claims activities of his branch during the preceding calendar month:

- 1 Number of claims on hand at beginning of month
- 2 Number of new claims established or received
- 3 Number of claims transferred from other branches
- 4 Number of claims disposed of

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5 Number of claims on hand at end of month, showing separately the numbers of claims in litigation and referred to Solicitor but not in litigation, as defined in paragraphs XVI A 5 and 6, respectively.

C Semiannual Analysis of Claims - In addition to the report described in A above, each branch shall furnish the FI Branch, on or before the 15th of March and September of each year, the reports on claims, as the last of February and August, described below. The initial report shall, however, be furnished on or before April 15, 1947, covering claims on hand as of March 31, 1947:

1 Form PMA-356 - The "Analysis of Claims By - Against CCC" (Form PMA-356) furnishes a semiannual statistical analysis PMA-356 of claims on hand as of the end of February and August of each year, according to value groups, age and nature. Separate reports, in duplicate, shall be submitted for claims by and claims against CCC.

a Age of Claims

(1) In order to provide uniformity of aging, claims by CCC shall be aged from the date of the earliest advice of the loss or overpayment, or from the date the branch office responsible for adjudicating the claim determines through audit procedures that a loss or overpayment occurred. Examples of the application of this general rule are:

Example 1: On claims for losses occurring in connection with shipments, or on commodities in store, use the date of the earliest report of the loss submitted by the shipper, carrier, consignee, contractor, warehouseman, official weighing or inspection service, and so forth.

Example 2: On overpayments of freight charges, use either the date of GAO advice of the overpayment or the date refund of overpayment of transportation charges is determined to be due through audit performed in the PMA office.

Example 3: On overpayments under contracts, use the date refund of overpayment is determined to be due.

Example 4: On claims indicated by reports of the Office of Audit, use the date of the audit report.

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(2) Claims against CCC shall be aged from the date demand is received from the claimant.

(3) The principal aim in the aging claims is to establish a uniform, readily workable plan, rather than to cause undue effort in fixing an exact date. Where pertinent facts may be lacking, a date which reasonably reflects the age of the claim should be used.

(4) In order to facilitate reporting, the dates from which the claims are aged should be clearly indicated on claims transferred from one branch to another.

b Claims in Litigation - Claims that are in litigation, as defined in paragraph XVI A 5 shall be reported in this section.

c Disputed Claims Not in Litigation - Claims that are disputed, as defined in paragraph II A 1 above, which are not also "in litigation", as defined in paragraph XVI A 5 above shall be reported in this section.

d Other Claims - This section shall cover all claims not included in the two foregoing groups.

2 Narrative Analysis of Claims Activities of Branch - Each branch shall submit to the FI Branch, along with PMA-356, a narrative analysis of the claims on hand at the end of February or August as the case may be. This report shall discuss separately claims by and against CCC and shall be submitted in duplicate. The purpose of this report is to present an adequate picture of the claims activities of the branch as of the date covered and during the preceding six months. The information presented in the report will accordingly depend upon the nature of claims handled by the particular branch. Suggested points that should be covered by this analysis are:

a Number and amount of claims reported in the three sections of PMA-356, classified according to "type of claim", using the types that normally occur in the operations of the branch.

b Trends in volume and types of claims handled in the preceding six months, with estimate of expectations for the succeeding six months. Reasons for changes in volume; steps taken or contemplated to reduce any existing backlogs, or actions required to maintain handling of claims on a current basis. Any suggestions as to manner in which the Assistant Administrator may expedite disposal of certain claims.

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c On claims in litigation, as defined in paragraph XVI A 5, the nature of each type of lawsuit pending, the age of the suit, and the number and amount of claims involved in the suit or on which disposition awaits the outcome of the suit. When more than one suit is pending for a particular type, the age of the oldest suit should be given. Similar information on claims removed from litigation during the preceding six months, including nature of legal decision or judgment rendered and method of disposal of affected claims.

d Issues involved in, and number and amount of claims affected by questions submitted to the Solicitor for an opinion, including date referred to Solicitor.

e Nature of dispute, status and amount involved for each claim over \$25,000 that was in dispute but not in litigation as of the date of the report. Similar information, including method of disposition, for each disputed claim over \$25,000 not in litigation disposed of during the preceding six months. This information must be included by each branch.

f Other factors essential or helpful to convey an adequate understanding of the claims situation in the branch.

D Fiscal Branch Summaries - On the basis of the foregoing reports of the respective branches, including those of the FI Branch, the FI Branch shall furnish to the Assistant Administrator the summary reports, described below. In all cases, one copy of the related branch reports shall be attached to the summary reports of the FI Branch.

1 On or before the 15th day of each month, (a) a consolidated statistical report on claims activities of all branches for the preceding month, and (b) an analytical summary of claims progress during the preceding month. Both of these reports shall be based on the branch reports on PMA-178, Revised. Accumulative records of claims activities of the respective branches shall be maintained by the FI Branch as required to facilitate making these reports.

2 On or before the last day of March and September of each year, (a) a consolidated statistical analysis of claims on hand in all branches as of the end of February and August, based on the branch reports on PMA-356, and (b) an analytical summary of the major points, trends, and problems brought out in narrative discussions submitted by the respective branches.

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E General

1 Consolidated Branch Reports - Where the claims activities of a branch are performed in more than one office, for example in Washington and in field offices, the branch reports (on PMA-178, Revised and PMA-356) shall cover the claims activities of all such offices and shall be accompanied by two copies of the reports of the respective offices. The semiannual analysis of claims on hand for the branch as a whole, in such cases, should summarize the important points covered in the narrative analyses received from the several offices and be accompanied by two copies of such reports. Each branch rendering consolidated reports shall establish dates for transmittal of reports by its respective offices that will permit delivery of the branch reports to the FI Branch on the dates specified in subparagraphs A and C above.

2 Addressing Reports to Fiscal Branch - In order to avoid any unnecessary delays, reports forwarded to FI Branch should be directed to: Director, Fiscal Branch, Attention: Claims Division.

F Records - The branches shall currently maintain records which will adequately furnish the information required to be reported by these Instructions.

XVII INVESTIGATIONS

The branches should determine at the earliest possible date which claims will require investigation by the Compliance and Investigation (C&I) Branch and should file such requests promptly with that Branch. Undue delay in requesting investigation may not only increase the difficulties of the C&I Branch but make it impossible for that Branch to secure evidence required.

XVIII CONTRACT DISPUTES BOARD

A Membership of Contract Disputes Board - The Contract Disputes Board is composed of the following three members: the Deputy Administrator (PMA), the Assistant Administrator for Fiscal and Inventory Control (PMA), who shall act as Chairman, and the Director of the FI Branch, or their designees.

B Jurisdiction of Board - The Contract Disputes Board is responsible for hearing and determining all disputes between the Corporation and claimants arising out of matters under the jurisdiction of the branches where settlement cannot be otherwise effected. The Board shall be the designated representative of the President and the Vice Presidents of the

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Corporation with respect to contracts of the Corporation containing a disputes article. In addition, the Board shall handle all matters, including settlement of claims, relating to the renegotiation of contracts of the Corporation. The decision of the Board shall be final for administrative purposes and no further administrative appeal within PMA shall be granted. The Board shall have authority to designate a Secretary.

C Rules and Procedures - The Board shall prescribe such rules and procedures as may be necessary, which shall provide, among other things, that presentations to the Board shall be in written form which may at the discretion of the Chairman of the Board be supplemented by oral argument and that the claimant may be represented by legal counsel.

D Recommendations of Branches - Before any matter presented to the Board is disposed of, the Board shall obtain the recommendation of the branch director involved in the matter. If the matter involves any doubtful question of law, the Board should obtain the advice of the Solicitor's Office with respect thereto.

* * *

Attachment: Exhibit A

COMMODITY CREDIT CORPORATION

No. _____ Admin. _____

Delegation of Authority to Settle Claims

Pursuant to the authority vested in the Director of the Branch, Production and Marketing Administration, by paragraph 28(b) of the By-Laws of the Commodity Credit Corporation, with respect to the settlement and adjustment of claims by and against the Corporation, and in accordance with the plans, policies, and procedures of the Corporation relating thereto, as set forth in a "Docket Establishing Policies for Handling Certain Claims by or Against Commodity Credit Corporation" (C113a), approved April 17, 1946, particularly paragraph 3(c) thereof, _____ is hereby designated as Claims Officer to act for and on behalf of the Commodity Credit Corporation and, subject to the limitations herein set forth, there is hereby delegated to such Claims Officer authority:

- (1) To negotiate with respect to and to settle all claims not in excess of \$1,000;
- (2) To negotiate with respect to and, with the written approval of the Director, _____ Branch, Production and Marketing Administration, to settle
 - (a) all claims over \$1,000 and not exceeding \$5,000, or
 - (b) all claims in excess of \$5,000 when the settlement can be made by resolving all legal and factual issues in favor of the Commodity Credit Corporation.
- (3) To negotiate with respect to and to prepare recommendations for the said Branch Director relating to all other claims; and
- (4) To determine a claim uncollectible when the amount of the claim is less than \$10.00, the full facts have not been ascertained, and the costs of investigation would greatly exceed the amount which could be collected.

As used herein, the term "Claim" shall have the same meaning as that defined in paragraph 2(a) of the said Docket, establishing policies for handling claims. The Claims Officer shall limit the exercise of the authority hereby delegated to claims arising in connection with _____

_____ pursuant to authorized programs of the Commodity Credit Corporation administered through the facilities and personnel of the _____ Branch of the Production and Marketing Administration; and furthermore such authority

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shall be exercised solely in accordance with the provisions of the said Docket, and of applicable plans, policies, and procedures of the said _____ Branch not inconsistent therewith. The Claims Officer shall not have authority hereunder to settle or adjust any claim arising under a contract executed by the Claims Officer.

Nothing contained herein shall be deemed to affect the authority of the said Branch Director personally to perform any responsibilities vested in him with respect to claims.

This instrument shall be effective on the date it is approved by the President, CCC, and shall remain in effect until terminated in writing.

Director, _____ Branch

Date: _____

Approved:

President, Commodity Credit Corporation

Date: _____